

**4947. Adulteration and misbranding of candy. U. S. v. 564 Boxes and 27 Cartons of Candy. Default decree of condemnation and destruction. (F. D. C. No. 9419. Sample Nos. 18591-F, 18593-F.)**

On February 27, 1943, the United States attorney for the District of New Jersey filed a libel against 564 boxes, each containing 15 retail packages, and 27 cartons, each containing 200 retail packages, of candy at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about January 30, 1943, by the Delicia Chocolate & Candy Manufacturing Co., Inc., from Brooklyn, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: "Delicia 5¢ Filbert [or "Almond"] Cream Filled Bar 1 Oz. \* \* \* The Good Name, 'Delicia,' stands out for tops in quality and purity of ingredients."

The article was alleged to be adulterated in that it consisted in whole or in part of filthy substances, rodent hair fragments and fragments resembling rodent or cat hairs, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

The article was alleged to be misbranded in that the statement, "The Good Name, 'Delicia,' stands for tops in quality and purity of ingredients," appearing on the labels was false and misleading as applied to an article that contained filth and that had been prepared under insanitary conditions.

One lot was alleged to be misbranded further in that the name "Almond Cream Filled Bar," the word "Almonds," and the statement, "Filled with the choicest of selected almonds," borne on the label were false and misleading as applied to the product, since it contained no almonds as such, but did contain a paste made from ground-up almonds and kernels of other nuts.

On June 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**4948. Adulteration of candy. U. S. v. 154 Boxes of Candy. Default decree of condemnation and destruction. (F. D. C. No. 9714. Sample No. 33803-F.)**

On March 27, 1943, the United States attorney for the Western District of New York filed a libel against 154 boxes of candy at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about February 22, 1943, by the Akron Candy Co. from Bellevue, Ohio; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, rodent hair fragments and fragments resembling rodent hairs, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth. The article was labeled in part: (Boxes) "Dum-Dums, 11 Delicious Flavors 5 for 5¢."

On May 13, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**4949. Misbranding of candy. U. S. v. 13 Boxes and 108 Boxes of Candy. Default decree of condemnation. Product ordered delivered to a welfare organization. (F. D. C. No. 9560. Sample Nos. 33522-F, 33523-F, 44926-F.)**

This product was short of the declared weight, the boxes were larger than necessary, and the statements of weight were in very small type.

On March 17, 1943, the United States attorney for the District of New Jersey filed a libel against 121 boxes of candy at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about February 26 and March 3, 1943, by the Loft Candy Corporation from Long Island City, N. Y.; and charging that it was misbranded. The article was labeled in part: (Small sticker on end of wrapper) "Milk Choc. Cherries 1 lb. Net," (box) "Loft Cherries 1 Pound Net."

The article was alleged to be misbranded (1) in that the statement "1 lb. Net" on the wrapper and on the box was false and misleading as applied to an article that was short-weight; (2) in that the container was so made, formed, and filled as to be misleading since the volume of the boxes was 77 cubic inches, whereas one layer of chocolate-covered cherries is usually packed in boxes containing 58 cubic inches; (3) in that it was in package form and failed to bear a label containing an accurate statement of the contents; and (4) in that the statement of the quantity of the contents, required by the act to appear on the label or labeling, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On June 21, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization.